



STATE OF NEW YORK
DEPARTMENT OF STATE
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ALBANY, NY 12231-0001

GEORGE E. PATAKI

RANDY A. DANIELS
SECRETARY OF STATE

July 9, 2002

Ms. Mary G. Holt, Esq.
Office of General Counsel
National Oceanic and Atmospheric Administration
1305 East-West Highway, Room 6111
Silver Spring, MD 20910

RE: CZMA Consistency Appeal of Millennium Pipeline, LP

Dear Ms. Holt:

Thank you for your letter of June 26, 2002 inviting our comments on the June 21, 2002 submission by the Village of Croton-on-Hudson, entitled *Procedural Requests of the Village of Croton-on-Hudson with Respect to the Appeal of Millennium Pipeline Company, L.P. from the New York State Department of State CZMA Objection*, in the above captioned CZMA consistency appeal.

Specifically, the Village has requested the Secretary of Commerce to (a) grant the Village intervenor or special party status; (b) provide for full due process, including opportunities for public comment; and (c) hold a public hearing on the appeal in Croton-on-Hudson.

The Department of State would have no objection to the granting of intervenor or special party status to the Village. We also would have no objection to the holding of a public comment hearing in Croton-on-Hudson. Moreover, we would support providing opportunities for comment to both the public and other interested agencies. Indeed, Millennium and the Department jointly recommended that such opportunities be provided for in the scheduling of this matter, as suggested in the June 21, 2002 letter from Mr. Frederic G. Berner, Jr.

The entire Village of Croton-on-Hudson, through which the pipeline would cross, is in the New York State Coastal Area. The pipeline proposal traverses the Village of Croton-on-Hudson using the Consolidated Edison transmission line right-of-way. In this route, the pipeline would cross the Croton River via open cut "dry" trenching in the river's substrate, and traverse a portion of the Village of Croton-on-Hudson's domestic water supply well field and a portion of the Jane E. Lytle Memorial Arboretum, a Village park. It would also cross the Croton River about one mile upstream from the northern limit of the State designated Croton River and Bay Significant Coastal Fish and Wildlife Habitat.

The Village of Croton-on-Hudson has an approved local waterfront revitalization program (LWRP), the enforceable policies of which were relied upon by the Department in the Millennium consistency determination. New York's federally approved Coastal Management Program incorporates municipally prepared LWRPs which have been circulated to State and federal agencies for review and comment. An LWRP is a comprehensive plan for the coastal municipality's waterfront area, which refines State policies to incorporate related local policies and circumstances, and provides for implementation of the program through local legislation, capital programs or other actions. The purpose behind local program development, like that underlying the Coastal Zone Management Act for state programs, recognizes that municipalities are in the best position to know about conditions in their waterfront areas.

Once an LWRP is approved by the US Secretary of Commerce, applicants for federal licenses and permits must certify that their activities will be undertaken in a manner that is consistent to the maximum extent practical with the enforceable policies set forth in the local programs. (16 U.S.C. § 1456(c)(3)). The New York Department of State reviews federal agency actions that affect land or water uses or resources in the coastal area covered by the LWRP for consistency based on the standards in the approved local programs. The Village of Croton-on-Hudson's LWRP was approved by the US Secretary of Commerce on August 17, 1992.

The Department's consistency determination utilized a combination of State and Village LWRP policies (Village of Croton-on-Hudson LWRP policies 18, 38, 7, 7G, 35, 44, and 44A, and its land and water use plan) in objecting to this version of the Millennium Pipeline proposal.

Thank you again for providing us with the opportunity to comment on the Village's submission.

Sincerely,



Glen T. Bruening
General Counsel

cc: Mr. Frederic G. Berner, Jr., Esq.
Mr. Neil L. Levy, Esq.